



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

Preston Bryant
Secretary of Natural Resources

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David K. Paylor
Director

R. Bradley Chewning, P.E.
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

Black Rock Mobile Home Park LLC, Rockingham County, Virginia

(VPDES Permit No. VA0088986)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d), between the State Water Control Board and the Black Rock Mobile Home Park LLC for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Black Rock" means the Black Rock Mobile Home Park LLC, the owner and operator of the Facility.
7. "Facility" means the Black Rock Mobile Home Park Sewage Treatment Plant and property located in Rockingham County, Virginia.
8. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
9. "Permit" means Virginia Pollutant Discharge Elimination System Permit No. VA0088986, which expired on July 14, 2005 and was reissued September 1, 2005.
10. "NOV" means Notice of Violation.
11. "Regulation" means the VPDES Permit Regulation 9 VAC 25-31-10 et seq.

SECTION C: Findings of Fact and Conclusions of Law

1. Black Rock owns the Facility located in the County of Rockingham, Virginia. The Facility is the subject of VPDES Permit No. VA0088986 ("the Permit"), issued September 1, 2005.
2. On February 15, 2005 DEQ issued Warning Letter **W2005-02-V-1009** to Black Rock for:
 - A. Failing to submit the VPDES permit application (due January 15, 2005) 180 days prior to the Permit expiration date.
This is a violation of 9 VAC 25-31-100.D and Part II.M. of the Permit.
3. On March 25, 2005 DEQ issued Warning Letter **W2005-03-V-1023** to Black Rock for:
 - A. Failing to meet the Permit effluent limits in August 2004 and January 2005 as noted on the Discharge Monitoring Report.
This is a violation of 9 VAC 25-31-50 (A) and Part I.A. of the Permit.
 - B. Failing to submit VPDES permit application in a timely manner.
This is a violation of 9 VAC 25-31-100.D and Part II.M. of the Permit.
4. On May 10, 2005 DEQ issued Warning Letter **W2005-05-V-1015** to Black Rock for:
 - A. Failing to meet the Permit effluent limits in Fe March 2005.
This is a violation of 9 VAC 25-31-50 (A) and Part I.A. of the Permit.

5. On June 15, 2005 DEQ issued Warning Letter **W2005-06-V-1021** to Black Rock for:
 - A. EnviroCompliance (contract laboratory) refusing to provide demonstrations of required laboratory procedures.
This is a violation of Part II.D. of the Permit.
6. On July 14, 2005 Black Rock's Permit expired.
7. On September 1, 2005 Black Rock's Permit was reissued.
8. On November 9, 2005 DEQ issued NOV **W2005-11-V-0008** to Black Rock for:
 - A. Unpermitted discharge to state waters during August 2005. Effluent levels were within the parameters of the Permit.
This is a violation of 9 VAC 25-31-50
9. Black Rock has corrected the violations set forth above. The unpermitted discharge has been addressed through the submission of a Permit application and the effluent limit violations have been addressed through training and the implementation of proper operational procedures. The refusal of EnviroCompliance to provide demonstrations of required laboratory procedures has been addressed by the contract laboratory.
10. Black Rock agrees to enter into an Order, this document, and pay civil charges for the unpermitted discharge, failure to reapply for the Permit in a timely manner, and effluent limit violations. The Warning Letter **W2005-05-V-1015** was issued to Black Rock due to EnviroCompliance refusing to provide demonstrations of required laboratory procedures. Therefore the refusal to provide demonstrations of laboratory procedures was not included in the assessed penalty.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a) and (8d), orders Black Rock, and Black Rock agrees, to perform the actions described in this Order.
2. Within 30 days of the effective date of this Order, Black Rock shall pay a civil charge of **\$2600.00** in settlement of the violations cited in this Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Black Rock shall also include its federal identification number (FIN) with the check, certified check, money order, or cashier's check and shall include a note that payment is being made in pursuant to this order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Black Rock, for good cause shown by Black Rock, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein in Section C. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Black Rock admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Black Rock consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Black Rock declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Black Rock to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Black Rock shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Black Rock shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Black Rock shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Director of the Valley Regional Office within 24 hours of learning of any condition above, which Black Rock intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Black Rock. Notwithstanding the foregoing, Black Rock agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Black Rock petitions the VRO Director to terminate the Order after it has completed all requirements of this Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed; or
 - b. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Black Rock.

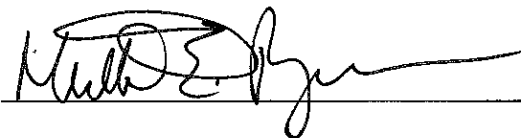
Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Black Rock from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. The undersigned representative of Black Rock certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Black Rock to this document. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of Black Rock.
13. By its signature below, Black Rock voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of Sept. 8, 2006.


for David K. Paylor, Director
Department of Environmental Quality

Black Rock agrees to the issuance of this Order.

By: 

Title: Environmental Director

Date: 13 Apr 2006

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this

13th day of April, 2006, by Matthew E Raynor
(name)

who is Environmental Director of Black Rock, on
(title)

behalf of said company.

Wendell H. Polk
Notary Public

My commission expires: December 4, 2010

